

Ky. Op. Atty. Gen. 03-OMD-116, 2003 WL 21357145 (Ky.A.G.)

Office of the Attorney General
Commonwealth of Kentucky

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May 16, 2003

In re: William A. Ritchie / Sharpsburg Water District

Open Meetings Decision

This is an appeal under the Open Meetings law on whether the Sharpsburg Water District required Mr. William A. Ritchie to identify himself in order to attend a public meeting of the Board of the District, placed his name in the minutes of the meeting, and failed to respond to his written complaint to the presiding officer; all in violation of the law. We determine that the District violated the law by not responding to the complaint. We do not find that the District violated the law in any other respect.

On April 9, 2003, at a meeting of the Board of the District, Mr. Ritchie handed the chairperson a letter of the same date complaining “[t]hat the Sharpsburg Water District is in violation of the Open Meetings Act by naming me in the regular monthly meeting minutes or by association by having me sign the sign up sheet and then proceeding to have that sign up sheet made a part of the minutes. I feel that this was done as a requirement to be present at the regular meetings as a means to identify me and other individuals.” Mr. Ritchie requested “[t]hat any monthly minutes that contain individual names should be amended to remove these names and sign up sheets that were made a part of these monthly minutes. In the future, I feel that this practice should be stopped.”

In its response to Mr. Ritchie's appeal, the District, by letter dated May 6, 2003, directed to this office, admitted that no response had been made to Mr. Ritchie's complaint. The District contends that the letter of complaint requested “future action” and was not, therefore, a “request under the Open Meetings Act.” We are of the opinion that the District was required to reply within three days. The statute provides, in part, as follows:

If a person enforces [KRS 61.805](#) to [61.850](#) pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of [KRS 61.805](#) to [61.850](#). The complaint shall state the circumstances which constitute an alleged violation of [KRS 61.805](#) to [61.850](#) and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision.

[KRS 61.846\(1\)](#).

The statute does not contemplate immediate action. It requires that the agency notify the complainant within three days of its decision on what will or will not be done about the complaint. Hence, requests that the agency take action in the future must be responded to within the three-day period. The District admittedly did not respond and we decide the failure to do so violated [KRS 61.846\(1\)](#).

*2 In its response, the District denies that sign-in sheets must be filled out by the public as a condition of attendance at Board meetings. In his complaint to the District, Mr. Ritchie does not directly state that signing in is a condition of attendance at the meetings. He states that he felt that it was. The law is clear on this point. "No person may be required to identify himself in order to attend a meeting." [KRS 61.840](#). Given the denial on the part of the District that signing the attendance sheet was a requirement for attendance at the meeting, and the tenor of Mr. Ritchie's letter, we determine that the District did not violate [KRS 61.840](#).

Mr. Ritchie also complains that the identity of individuals attending the meeting were included in the minutes. There is nothing in the law which prohibits this practice. The District cites [KRS 61.835](#) for the proposition that a public agency is required to compile minutes. That statute requires that the minutes set forth an accurate record of the votes and actions at the meetings. The statute does not give any other direction on the content of the minutes. This office has no power to tell an agency what should or should not be contained in the minutes of a public meeting beyond what is required in the statute. Accordingly, we find no violation of the Open Meetings law with regard to the contents of the minutes.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to [KRS 61.846\(4\)\(a\)](#). The Attorney General should be notified of any action in circuit court, but should not be named as a party in that action or in any subsequent proceeding.

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